

DECLARATION OF LYNNE FREEMAN

I, Lynne Freeman, do hereby declare as follows:

1. I am the plaintiff in *Freeman v. Deebs-Elkenaney et. al.*, No. 1:22 Civ 02435. I have personal knowledge of the matters set forth herein, and if asked to do so, I could and would testify competently thereto.

2. I am submitting this declaration in support of a letter by my counsel seeking clarification and/or recusal of Magistrate Judge Sarah Netburn.

3. A true and correct copy of pages 5 through 7 of the Transcript of the July 20, 2022 hearing before The Honorable Sarah Netburn is attached hereto as Exhibit “1.”

4. A true and correct copy of pages 5 through 9 of the Transcript of the June 2, 2023 hearing before The Honorable Sarah Netburn is attached hereto as exhibit “2.”

5. Had I known that Judge Netburn’s husband and Lance Koonce had been partners at the same firm for a number of years, in addition to having a case together in which Mr. Cuti is cumis counsel, I would never have waived the conflict of interest, and would have respectfully requested Judge Netburn reassign the case to a different Magistrate.

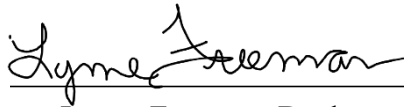
6. At the June 2, 2023, hearing on Defendants’ request that Judge Netburn streamline the case by suspending remaining expert discovery and ordering immediate dispositive briefing on the issue of whether the *Crave* series and *BMR* are substantially similar, Judge Netburn asked the Court Reporter to go off the record. Judge Netburn then stated that Plaintiff was at risk and she needs to make a reasonable settlement offer – not a \$10 million offer. I was very upset by the statement because Judge Netburn does not know the value of the case and it was prejudicial for her to state in front of Defendants that a reasonable settlement offer would be less than \$10 million.

7. I do not even know the full value of the case because Judge Netburn has allowed Defendants to delay updating their damages discovery until after there has been

1 a ruling on their proposed motion for summary judgment. Nonetheless, based on
2 information gathered to date, I am confident that my damages exceed \$10 million.

3 I declare under penalty of perjury that the foregoing is true and correct.
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5 Executed June 26, 2023 at Santa Barbara, CA.
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Lynne Freeman, Declarant
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